IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 305 OF 2006

MR. IGNATIUS FERNANDES AND 4 ORS., ...Petitioners

Versus

STATE OF GOA THROUGH THE CHIEF SECRETARY AND 5 ORS., ...Respondents

Mr. M. S. Sonak,Advocate for the Petitioners.
Mr. S. S. Kantak, Advocate General with Mr. M.Salkar,Additional Government Advocate for the Respondent Nos. 1 to 3 and 5.
Mr. M. S. Joshi, Advocate for the Respondent No.4.
Mr. N. Sardessai with Mr. V. Rodrigues, Advocates for the Respondent No.6.

Coram:- J. N. PATEL &
N. A. BRITTO, JJ.

Date:- 6th November, 2006

P.C.:-

Heard the learned Counsel for the petitioners, the learned Advocate General for the respondent nos.1 to 3 and 5 and the learned Counsel for the respondent nos.4 and 6.

The learned Counsel for the respondent no.4 is filing his short affidavit in reply which he may tender in the Office during the course of the day. Copies be furnished to the other side.

The petition can be disposed of at the stage of admission itself.

The petitioners have come with a grievance that the respondent no.6 rather than disbursing the stipend to the trainees which has been sanctioned by the Sports Authority of India has misappropriated the same after obtaining receipts from the students of St. Anthony's High School which is Annexure 1 to the petition.

It is contended that respondent no.1 be directed to lodge an F.I.R. against the respondent no.6 on the basis of representation made by the petitioners.

On the other hand, it is contended on behalf of respondent no.6 that

the stipend came to be refunded to the Sports Authority of India and, therefore, no case is made out against the respondent no.6.

On behalf of the State, it has been submitted that after receipt of the representation made by the petitioners, an enquiry has been initiated and if it is found that criminal offences are committed by respondent no.6 and member of the management of respondent no.6/Institution, F.I.R will be lodged in the concerned Police Station.

In the affidavit in reply on behalf of the respondent no.4, it has been specifically stated that the Sports Authority of India have examined the issue and have found that respondent no.6 has obtained signatures of the students on revenue stamps by way of acknowledgement of having received the stipend but factually it was not paid to them though it was shown to have been paid and intimation to that effect was forwarded to the respondent no.4 that the amount has been paid to the students as shown in Exh.R-4/B.

It also appears from their affidavit that the respondent no.6 on realising the fact that the Sports Authority of India has taken note of the lapse on their part refunded the said amount under their letter dated 11-11-2002 and now the same is lying with the respondent no.4 and they are ready and willing to disburse the amount to the eligible students of the said Institution as per the norms of the scheme.

In view of this, we have no hesitation to prima facie arrive at a conclusion that the respondent no.6 did misappropriate the funds by cheating the students and betrayed the trust reposed in the Institution made available to them by way of stipend for disbursing to the eligible students in accordance with the scheme of the Sports Authority of India.

We, therefore, dispose of this petition with a direction to the respondent no.1/State to conclude the enquiry expeditiously, and lodge a report with the respondent no.5 treating their representation as F.I.R.

The respondent no.4 may proceed to disburse the stipend to the eligible students of the respondent no.6/Institution. We are also of the view that for such serious lapses respondent no.2 should also take suitable action against the management of the Institution and persons who are concerned with the misappropriation of funds made available by the

Sports Authority of India to the students of the Institution to be paid as stipend after conducting necessary enquiry and take appropriate action in accordance with law.

The petition stands disposed of.

J. N. PATEL, J.

N. A. BRITTO, J.

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